Corporation Franchise Tax

The corporation franchise tax is a business privilege tax that dates back to 1902. For most taxpayers, Ohio has completed the process of phasing out the corporation franchise tax in favor of the new commercial activity tax (CAT). The 2009 franchise tax report (based on the taxable year ending in 2008) was the last report that most taxpayers will file.

For report years 2010 and thereafter, the franchise tax applies only to financial institutions and a relatively small number of other corporations described in Ohio Revised Code 5733.01(G)(1)(b). These corporations were not subject to the phase out and do not pay the CAT.

Financial institutions pay a 13 mill tax measured by net worth. Other taxpayers compute the tax on both net worth and net income and pay on the base that produces the higher tax. The net worth tax rate for other taxpayers is 4 mills; the net income rate is 5.1 percent on the first $50,000 of net income and 8.5 percent on remaining net income. These latter corporations are also subject to a litter tax based on either net worth or net income.

During fiscal year 2012, the corporation franchise tax generated about $117.4 million in total revenue. The tables in this chapter provide data from reports due and filed in 2010.

Data on financial institutions are reported separately from general corporations and are shown in the final table. Financial institutions reported tax liability before credits of $175.6 million for the 2010 report year.

Of the total tax liability before credits for general corporations, about 72 percent came from taxpayers that paid on a net income basis. Of the general corporation franchise taxpayers, approximately 10 percent paid tax on net income, 22 percent paid tax on net worth, and the remaining 68 percent paid the minimum tax.

Of financial institutions, banks filed 67 percent of all returns and paid 83 percent of the total tax liability. Savings and loans filed 24 percent of returns and paid 17 percent of the total liability. Other types of financial institutions accounted for the balance of returns and tax liability.

Taxpayer

(Ohio Revised Code 5733.01)

The Ohio corporation franchise tax is imposed on certain domestic and foreign corporations for the privilege of doing business in Ohio. Starting with report year 2010, the tax is limited to financial institutions as well as the following entities identified in R.C. 5733.01(G)(1)(b):

- certain financial holding companies, bank holding companies and savings and loan holding companies;
- certain affiliates of these holding companies and certain affiliates of financial institutions;
- certain affiliates of insurance companies; and
- securitization companies.

The tax applies to the corporations described above as long as they:

- are organized for profit;
- own capital or property in Ohio;
- hold a charter or certificate of compliance authorizing business operations in Ohio; or
- have nexus with Ohio.

Tax Base

(R.C. 5709.65, 5733.04, 5733.05, 5733.051, 5733.056)

The franchise tax is levied on the value of a corporation's issued and outstanding shares of stock.

Financial institutions pay tax based on their net worth. Other taxpayers determine the value of their stock under both a net income base and a net worth base, and pay on the base that produces the greater tax. For examples of calculations of the tax for non-financial institutions, see the exhibit.

Qualifying holding companies pay tax on the net income base only.

Net Worth Base (R.C. 5733.05(C))

The net worth base value of issued and outstanding shares of stock is determined by subtracting from book net worth items excluded by statute; see **Exemptions, Exclusions, Deductions and Additions** for details. For financial institutions, the tax is determined by multiplying the taxpayer's adjusted net worth by the taxpayer's Ohio apportionment ratio and by the net worth rate of 13 mills (1.3 percent). For other corporations, the tax is calculated by multiplying this adjusted net worth by the net worth apportionment ratio and by the net worth tax rate of four mills (0.4 percent). See this chapter's exhibit for more information.

The net worth tax for financial institutions differs substantially from the net worth tax for other corporations.

Net Income Base (R.C. 5733.05(B))

The net income base value of issued and outstanding shares is calculated by making certain deductions from and additions to federal taxable income, then applying net operating loss deductions and special deductions for the taxable year (see Exemptions, Exclusions, Deductions and Additions). The adjusted income is then either allocated (in the case of nonbusiness income) or apportioned (in the case of business income) in and outside of Ohio as follows:

- **Allocable Income** – Unless the Tax Commissioner requires an alternative method of allocation or approves the taxpayer's requested alternative method, only nonbusiness income is allocated in and outside Ohio (R.C. 5733.051).

- **Apportionable Income** – All income is presumed to be apportionable business income unless the taxpayer shows otherwise or the Tax Commissioner approves or requires an alternative method of apportionment. Business income is apportioned to Ohio according to a weighted three-factor formula: property, payroll, and sales (see the exhibit for details).

Ohio taxable (net) income is equal to the sum of nonbusiness income allocated to Ohio and business income apportioned to Ohio less Ohio net operating losses carried forward from an earlier year.

Rates

(R.C. 5733.06)

Financial institutions rate

Financial institutions are subject to tax on their net worth at a rate of 13 mills (1.3 percent).

Rates for other entities

The other franchise taxpayers (described in R.C. 5733.01(G)(1)(b)) compute the tax on both a net worth and a net income basis and pay on the base that produces the higher tax. These corporations are also subject to a litter tax based on either net worth or net income.

Net worth rate – Net worth taxable value is taxed at the rate of four mills (0.4 percent). The maximum tax on the net worth base for taxpayers other than financial institutions is $150,000 per taxpayer.

Net income rates – Net income is taxed at the rate of 5.1 percent on the first $50,000 of Ohio taxable income and 8.5 percent on Ohio taxable income in excess of $50,000. Corporations that meet the ownership requirements to file a combined report must share the $0 to $50,000 tax bracket to which the 5.1 percent rate applies, regardless of whether or not they actually file a combined return.

Litter Tax Rates (R.C. 5733.066 and 5733.065) – In addition to the general franchise tax calculation rate, tier 1 litter tax applies to taxpayers other than financial institutions.

Tier I litter tax – The Tier I litter tax is a base litter tax computed on both the net income base and net worth base and paid on the base that produces the greater tax. The rates are:

- Net Worth – 0.14 mills (0.014 percent) on the taxable value (adjusted net worth) of the corporation, or
- Net Income – 0.11 percent on the first $50,000 of Ohio taxable income plus 0.22 percent on taxable income in excess of $50,000.

The maximum Tier I litter tax charged any taxpayer or group of combined taxpayers is $5,000.

Minimum fee

For taxable years ending after June 25, 2003, the minimum tax liability for certain large taxpayers is $1,000. For taxpayers other than large taxpayers, the minimum fee is $50.

Exemptions, Exclusions, Deductions and Additions

Exempt Corporations (R.C. 1733.43, 5733.01, 5733.04, 5733.06, 5733.09, and 5733.10)

Entities not subject to the franchise tax include:

- nonprofit corporations;
- credit unions;
- subject to certain restrictions, "real estate investment trusts," "regulated investment companies," and "real estate mortgage investment conduits" as defined in the Internal Revenue Code (I.R.C.);
- corporations electing to be treated as an "S" corporation under the I.R.C., as well as their qualified subchapter S subsidiaries (QSSS);
- limited liability companies (LLCs), if treated as a partnership for federal tax purposes; and
- corporations in Chapter 7 bankruptcy proceedings (except for the portion of the current tax year such corporation had the power to exercise its corporate franchise unimpaired by such proceedings).

Additions and Deductions in Determining Net Worth (R.C. 5709.25, 5709.65, 5915.29, 6111.36 and 5733.056)

In determining net worth, entities other than financial institutions add to book net worth (assets minus liabilities) the "qualifying amount" as defined by R.C. 5733.05(D)(1).

In determining net worth, entities deduct from book net worth:

- certified Ohio civil defense structures;
- land in Ohio devoted exclusively to agriculture;
- qualified improvements to property located in an enterprise zone (generally does not apply to financial institutions); and
- appreciation and goodwill (applies only to financial institutions).

Adjustments in Determining Ohio Net Income (R.C. 5709.35, 5733.04, 5733.042, 5733.053, 5733.054, 5733.055, and 5733.058)

In determining Ohio net income, corporations start with federal taxable income. Corporations then make a number of adjustments, including:

- deduction of certain income from sources outside the United States;
- deduction of the "dividends received" deduction provided by section 243 of the I.R.C.;
- to the extent not otherwise deducted, deduction of dividends received from public utilities, insurance companies, and financial institutions in which the taxpayer has the ownership interests as described by statute. (In addition, receipts from these companies are eliminated in determining the sales factor for apportioning net income and net worth);
- deduction of gains and addition of losses from the sale of capital assets and I.R.C. section 1231 assets to the extent such gains and losses occurred prior to becoming a taxpayer;

- deduction of interest on Ohio public and purchase obligations and gains from the sale of;
- Ohio public obligations (losses from sales of Ohio public obligations are added to net income);
- deduction of wage and salary expenses not otherwise deducted for federal tax purposes because of the targeted jobs tax credit and/or the work opportunity tax credit;
- deduction of net interest income on federal government obligations;
- deduction of Ohio net operating losses carried forward from the prior 20 years (there is no Ohio net operating loss carry back provision);
- deduction of amounts contributed to an individual development account program;
- deduction of net income attributable to an "exempted investment" in a public utility (net loss from exempted investment in a public utility is added to net income);
- deduction of taxable temporary differences in connection with the commercial activity tax credit for franchise tax net operating losses;
- addition of the amount claimed as a credit for taxes paid by a qualifying pass-through entity to the extent that the amount was deducted or excluded from the corporation's federal taxable income;
- addition of interest and intangibles expense paid to certain related members;
- addition of income (and deduction of losses) earned by a transferor corporation that merges into the taxpayer in a tax-free reorganization;
- addition of depreciation expense adjustment for I.R.C. section 168(k) bonus depreciation and additional I.R.C. section 179 depreciation and miscellaneous federal tax adjustments as required. Deduct one-fifth of this add back in each of the five subsequent years. Deduct any miscellaneous federal tax adjustments as required;
- addition of distributive or proportionate share of pass-through entity expenses paid to, losses incurred from transactions with, and excess inventory costs paid to related members; and
- addition of deductible temporary differences in connection with the commercial activity tax credit for franchise tax net operating losses.

Credits

A number of business tax credits may be claimed against more than one tax. Information about these credits has been consolidated in the **Business Tax Credits** chapter of this annual report.

Several other credits primarily apply to franchise taxpayers. They include:

Qualifying affiliated groups (R.C. 5733.068)

If as a result of the related entity and related member adjustments, an affiliated group would pay over $3.5 million more franchise tax than the members of the group otherwise would have paid had the members of the group not made the related entity and related member adjustment, then the members of the affiliated group may claim a nonrefundable credit equal to the difference between the additional tax and $3.5 million. However, the credit is limited to $1.5 million for the affiliated group (even if the additional tax exceeds $5 million).

Recycling and litter prevention donations (R.C. 5733.064)

Taxpayers may claim a nonrefundable credit equal to 50 percent of cash donations for litter control made to municipalities, counties, and townships that qualify for grants from the litter control and recycling special account. This credit is limited to the lesser of cash donations or 50 percent of the additional tax liability from litter tax rates.

Savings and loan association fees (R.C. 5733.063)

Savings and loan associations are permitted a nonrefundable credit against the tax due that is equal to the annual assessment the association paid to the Division of Savings and Loan Associations under R.C. 1155.13, less the amount the association paid in supervisory fees during the taxable year to the Federal Savings and Loan Insurance Corporation (or the amount it would have paid if insured).

Taxes paid by a qualifying pass-through entity (R.C. 5733.04(I)(14), 5733.0611)

A corporation that is a qualifying investor in a qualifying pass-through entity can claim a nonrefundable credit equal to the corporation's proportionate share of the tax paid by the qualifying pass-through entity. However, corporation claiming this credit must add to federal taxable income the amount claimed as a credit, to the extent that the amount claimed was not included in the corporation's federal taxable income.

Special Provisions

Exit tax (R.C. 5733.06(H)).

Corporations ceasing business in Ohio may be subject to an "exit tax" on unreported Ohio net income recognized in the two calendar years prior to the tax year.

Ownership of pass-through entities (R.C. 5733.057).

Each franchise taxpayer must include in its adjusted qualifying amounts, allocable and apportionable income or loss, property, compensation, and sales, the taxpayer's proportionate or distributive share of such items for any pass-through entity in which the taxpayer has a direct or indirect ownership interest.

Related members (R.C. 5733.042)

Intangible expenses and costs paid to certain related members are added to income.

Combining net incomes of corporations (R.C. 5733.052)

If more than half of a taxpayer's capital stock with voting rights is owned or controlled directly or indirectly by another corporation or by a related interest, the Tax Commissioner may permit or require the combining of net income to calculate the tax base. A qualifying controlled group of taxpayers may elect to file a combined report if each has non-dividend income from Ohio sources. This election may not be changed by the taxpayer without the Tax Commissioner's consent. (These combination provisions do not apply to the net worth base).

Transferee corporation subject to transferor's tax liability (R.C. 5733.053)

A transferee corporation in a tax-free reorganization is required to include in its income the income of the transferor if the transferor is not subject to the franchise tax.

Filing and Payment Dates

(R.C. 5733.02, 5733.021, 5733.022 and 5733.13)

Key filing and payment dates include:

- Jan. 31. If by Jan. 31 of the report year the corporation does not file the annual report and make full payment of the tax due, then by that date the corporation must file form FT 1120E and pay one-third of that estimated liability. If the estimated tax liability is the minimum fee, the corporation must make full payment by Jan. 31.
- March 31. By March 31 of the report year the corporation must either file its franchise tax report and pay the remaining tax due or file a request for extension (form FT 1120ER) and pay the second one-third of its estimated tax liability.
- May 31. By May 31 of the report year the corporation must either file the annual report and pay the remaining tax due or file a request for additional extension (form FT 1120EX) and pay the remaining one-third of its estimated tax liability. A corporation filing this extension must file its annual report and pay any remaining tax liability by the 15th day of the month following the extended due date for filing its federal corporation income tax return.

Interest

The interest rate on both underpayments and overpayments is based on the average federal short-term rate in effect for that calendar year, plus three percentage points, pursuant to R.C. 5703.47.

EFT

Taxpayers are required to pay by electronic funds transfer (EFT) if, for the second preceding tax year, the taxpayer's total franchise tax liability after reduction for nonrefundable credits exceeded $50,000. Taxpayers that are required to pay by EFT must register with the Treasurer of State.

Disposition of Revenue

(R.C. 4981.09, 5733.12, 5733.122)

In House Bill 119, the FY 2008-2009 biennium budget bill enacted in 2007, the General Assembly revised the formula and the revenue accounting associated with the local government funds. Starting in January 2008, all franchise tax revenue was directed to the General Revenue Fund after deposits with the Attorney General Claims Fund and the Litter Control Tax Administration Fund. For details on the local government fund changes, see the Local Government Funds chapter.

Administration

The corporation franchise tax is administered by the Department of Taxation. Some tax credits and grants are administered by the Ohio Department of Development. Tax payments are payable to the Treasurer of State but are received by the Department of Taxation.

Ohio Revised Code Citations

Chapters 122, 1733, 4981, 5703, 5709, 5733, 5751 and 5915.

Recent Legislation

House Bill 1, 128th General Assembly (tax credits)

–The bill significantly restructured the job creation and job retention tax credits, made important changes to the historic building preservation and technology investment credits, and created a pair of new tax credits: a motion picture production tax credit and the new markets tax credit. For details, see the **Recent Legislation** section of the **Business Tax Credits** chapter.

House Bill 58, 129th General Assembly (Internal Revenue Code conformity)

–The bill amended the definition of "Internal Revenue Code as amended" found in R.C. 5701.11, thereby adopting the I.R.C. amendments enacted by Congress from Dec. 15, 2010 (the effective date of H.B. 495's amendment to R.C. 5701.11) through March 7, 2011 (the effective date of H.B. 58's amendment of R.C. 5701.11).

House Bill 508, 129th General Assembly (election of calculating base for financial institutions)

-The bill allows qualified financial institutions to elect to calculate the base upon which the tax is imposed by using a single sales apportionment factor.

Exhibit

The purpose of this exhibit is to explain how the corporation franchise tax is calculated on either the net worth or net income base for taxpayers other than financial institutions.

Net worth base

The net worth tax base of the tax is calculated this way:

Ohio taxable value[1] = net value of stock × apportionment ratio

Net income base

The net income base of the tax is calculated this way:

Ohio Taxable Income[2] = Business Income Apportioned to Ohio + Nonbusiness Income Allocated to Ohio – Ohio Net Operating Loss Carry Forward Deduction

Apportionment ratios and factors

On either tax base, an apportionment ratio[3] is used to distinguish net income or worth in Ohio from net income or worth everywhere else. Apportionment ratios are calculated according to this weighting:

Apportionment ratio = (Property factor × 0.20) + (Payroll factor × 0.20) + (Sales factor × 0.60)

The individual factors are calculated this way:

$$\text{Property Factor} = \frac{\text{Average cost of owned or rented real and tangible personal property used in business in Ohio}}{\text{Average cost of such property used everywhere}}$$

$$\text{Payroll Factor} = \frac{\text{Total compensation paid in Ohio}}{\text{Total compensation paid everywhere}}$$

$$\text{Sales Factor} = \frac{\text{Sales in Ohio}}{\text{Sales everywhere}}$$

On the net income base of the franchise tax, the factors do not include property, payroll or sales relating to non-business income. On the net worth base of the tax, they do.

Also, for sales of tangible personal property, sales inside and outside Ohio are determined by the final destination of the property sold; other sales are sitused according to where the purchaser received the benefit of that which was purchased.

Specific adjustments apply to each factor, as follows:

Property – Neither the numerator nor the denominator include the original cost of property used exclusively for qualified research or property in Ohio for which the state has issued an Air Pollution, Noise Pollution, or an Industrial Water Pollution Control Certificate. Also, the numerator does not include the original cost of qualifying improvements to land or tangible personal property at an enterprise zone facility for which the taxpayer holds a Tax Incentive Qualification Certificate issued by the Ohio Department of Development.

Payroll – Neither the numerator or denominator include compensation paid in Ohio to employees engaged in qualified research. The numerator does not include compensation paid to certain new employees at an enterprise zone facility for which the taxpayer holds a Tax Incentive Qualification Certificate issued by the Ohio Department of Development.

Sales – Does not include sales derived from non-business allocable income. Also does not include interest and dividends.

1 The value of pollution control, coal conversion and energy conversion facilities property is excluded from the net value of stock. Also excluded: qualified property in an enterprise zone and land devoted exclusively to agriculture.

2 Taxable income also includes income or losses from a a transferor corporation and includes positive or negative adjustments for related entities and related members.

3 A different apportionment formula applies to financial institutions.

Table 1

Corporation Franchise Tax Collections Fiscal Years 2008-2012			
Fiscal Year	**Gross Tax Collections**	**Refunds**	**Net Tax Collections**
2008	$963,244,229	$208,611,265	$754,632,965
2009	710,875,661	189,512,254	521,363,407
2010	367,982,261	225,664,540	142,317,721
2011	312,516,576	75,311,473	237,205,103
2012	267,298,017	149,852306	117,445,711

Table 2

Corporation Franchise Tax
Number of Corporations by Tax Base & Industry Classification
Tax Year 2011

Industry	Minimum	Net Worth	Net Income	Total
Finance	245	103	54	402
Insurance	173	37	32	242
Real Estate	67	22	4	93
Rental & Leasing	21	19	11	51
Holding Companies	173	14	12	199
All Other Industries	51	12	14	77
TOTAL	**730**	**207**	**127**	**1,064**

Table 3

Corporation Franchise Tax
Number of Corporations by Tax Base and Tax Liability Class:
Tax Year 2011

Number of Corporations by Tax Base

Tax Liability Class	Minimum	Net Worth	Net Income	Total
Minimum ($50 or $1,000)	730	0	0	730
$51 - $1,000	0	40	25	65
$1,000 - $5,000	0	51	24	75
5,001 - 10,000	0	27	14	41
10,001 - 25,000	0	26	15	41
25,001 - 50,000	0	14	16	30
50,001 - 100,000	0	11	10	21
100,001 - 500,000	0	38	14	52
500,001 - 1,000,000	0	0	3	3
Over $1,000,000	0	0	6	6
TOTAL	**730**	**207**	**127**	**1,064**

Table 4

Corporation Franchise Tax
Reported Tax Liability by Tax Base and Industry:
Tax Year 2011

Industry	Tax Liability Before Litter Tax and Credits By Tax Base: Minimum	Net Worth	Net Income	Total	Total Non-Refundable and Refundable Tax Credits	Tax Liability After Tax Credits
Finance	$86,350	$4,404,732	$20,186,149	$24,677,231	$6,950,603	$17,943,447
Insurance	63,750	624,424	512,466	1,200,640	39,819	1,186,854
Real Estate	12,850	407,341	193,546	613,737	0	625,233
Rental & Leasing	8,650	707,116	449,846	1,165,612	0	1,187,449
Holding Companies	35,250	853,889	395,413	1,284,552	0	1,306,604
All Other Industries	15,850	294,139	930,040	1,240,029	485,109	779,890
TOTAL	**$222,700**	**$7,291,641**	**$22,667,460**	**$30,181,801**	**$7,475,531**	**$23,029,477**

Table 5

Corporation Franchise Tax
Reported Tax Liability by Tax Base and Tax Liability Class:
Tax Year 2011

Tax Liability Class	Tax Liability Before Litter Tax and Credits By Tax Base: Net Minimum	Net Worth	Income	Total	Refundable Tax Credits	Total Non-Refundable and Tax Liability After Tax Credits
Minimum ($50 or $1,000)	$222,700	$0	$0	$222,700	$604,695	($381,995)
$51 - $1,000	0	13,986	8,631	22,617	480	22,760
$1,000 - $5,000	0	122,156	60,860	183,016	993	186,888
5,001 - 10,000	0	188,506	101,458	289,964	0	297,018
10,001 - 25,000	0	385,373	255,621	640,994	0	658,511
25,001 - 50,000	0	486,511	590,413	1,076,924	25,500	1,074,558
50,001 - 100,000	0	846,607	702,490	1,549,097	6,000	1,581,863
100,001 - 500,000	0	5,248,502	2,584,657	7,833,159	6,837,863	1,163,484
500,001 - 1,000,000	0	0	2,158,530	2,158,530	0	2,173,530
Over $1,000,000	0	0	16,204,800	16,204,800	0	16,254,860
TOTAL	**$222,700**	**$7,291,641**	**$22,667,460**	**$30,181,801**	**$7,475,531**	**$23,029,477**

Table 6

Corporation Franchise Tax
Number of Financial Institutions and Reported Tax Liability,
by Type of Institution:
Tax Year 2011

Tax Liability Class	Number of Corporations By Type: Banks	Savings Institutions	Other[1]	Total	Tax Liability Before Credits By Type: Banks	Savings Institutions	Other[1]	Total	Refundable & Nonrefundable Tax Credits
Minimum ($50 or $1000)	20	2	18	37	$12,400	$1,050	$4,550	$18,000	$0
$51 - 1,000	1	1	1	5	674	926	1,633	3,233	0
1,001 - 2,000	3	1	3	4	5,556	1730	0	7,286	0
2,001 - 3,000	4	12	0	7	11,038	5,405	2,443	18,886	0
3,001 - 4,000	3	0	2	4	9,731	0	3,606	13,337	0
4,001 - 5,000	0	0	0	2	0	0	9,388	9,388	0
5,001 - 10,000	8	3	1	11	54,730	24,009	0	78,739	0
10,001 - 15,000	6	2	0	10	75,039	24,695	22,506	122,240	0
15,001 - 20,000	1	0	2	1	17,874	0	0	17,874	0
20,001 - 25,000	10	0	2	10	226,720	0	0	226,720	3,253
25,001 - 30,000	2	1	0	5	59.426	29,336	55,695	144,457	0
30,001 - 35,000	2	3	0	5	62,280	95,599	0	157,879	3,421
35,001 - 50,000	11	5	0	16	462,781	216,450	0	679,231	17,226
50,001 - 100,000	39	17	2	58	3,018,235	1,359,098	177,838	4,555,171	188,947
100,001 - 200,000	50	23	3	76	6,963,532	3,277,449	419,700	10,660,681	329,708
200,001 - 500,000	60	19	0	79	19,005,716	6,496,637	0	25,502,353	644,360
500,001 - 1,000,000	18	5	0	23	13,202,630	3,586,142	0	16,788,772	69,737
Over $1,000,000	19	6	0	25	108,083,012	13,762,210	0	121,845,222	7,003,960
TOTAL	**257**	**93**	**34**	**378**	**$151,271,374**	**$28,880,736**	**$697,359**	**$180,849,469**	**$8,260,612**

1 Primarily credit agencies that accept deposits.